IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TENTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 22681 of 2004

Between:

N. Yadaiah, E. 71955, Jr. Asst. (P) Sangareddy Depot S/o Balaiah
r/o Sangareddy, Medak District

..... PETITIONER

AND

1 The APSRTC rep by its Regional Manager, Medak Region at Medak
2 The APSRTC rep by Divisional Manager O/o R.M. Medak Region at Medak
3 The APSRTC rep by Depot Manager, Sangareddy, Medak District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus, or any other appropriate Writ, order or direction, declaring the action of the respondents herein in imposing the punishment of deferment of annual increment for a period of 2 years with cumulative effect without holding any departmental enquiry vide proc. No. 02/104(137)/81-MDK, dt 29-01-84, which was confirmed by the appellate and review authorities vide proc No. PA/26(34)/2002-DVM-SRD, dt 17-4-2003 and proc. No. PA/675 (17)/03-RM-MR, DT 13-08-2004 respectively as illegal, unjust, contrary to well established principles of law and as such liable to set a side by the petitioner by adding the deferred increment w.e.f 29-1-1984 and to pay the arrears forthwith and pass such other order or orders as may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.S.M.SUBHAN

Counsel for the Respondent Nos 1 to 3: MR.V.T.M.PRASAD (S.C.FOR APSRTC)

The Court at the stage of admission, made the following :

ORDER:

This writ petition is filed by the petitioner declaring the action of the respondents herein in imposing the punishment of deferment of annual increment for a period of 2 years with cumulative effect without holding any departmental enquiry as illegal, unjust and contrary to law.

The disciplinary authority passed the order on 29.1.1984. After a lapse of nearly nine years, the writ petitioner filed a revision application before the competent authority, which was also dismissed.

The learned counsel appearing for the petitioner contended that imposing a major penalty without conducting any enquiry is highly illegal.

On the other hand, the learned counsel for the respondents contended that since the writ petitioner himself admitted the charge, the department did not conduct any enquiry. Therefore, the order under challenge does not suffer from legal infirmity, so as to call for any interference by this Court.

No doubt, a charge memo was given to the petitioner, but the writ petitioner did not give any explanation. Therefore, the disciplinary authority came to the conclusion that the charge against the petitioner stands proved. Imposing the penalty of

deferment of annual increment for a period of two years with cumulative effect is a major penalty. Unless it is preceded by a departmental enquiry, the disciplinary authority cannot impose such a major penalty. The review application, filed by the petitioner has been considered and dismissed. Though the disciplinary authority passed an order in the year 1984, but the review application of the petitioner has been considered and dismissed in the year 2004 on merits. Therefore, a minor punishment can be imposed instead of remitting the case back to the disciplinary authority due to lapse of considerable length of period.

Having regard to the facts and circumstances of the case, imposing punishment of deferment of annual increment for a period of two years with cumulative effect is modified with that of punishment of deferment of annual increment for a period of two years without cumulative effect.

Accordingly, the writ petition is disposed of. No order as to costs.

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10.12.2004

bsv

To

1 The Regional Manager, APSRTC, Medak Region at Medak
2 The Divisional Manager ,APSRTC, O/o R.M. Medak Region at Medak
3 The Depot Manager,APSRTC, Sangareddy, Medak District

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